

Docket No.: 070702007400
(PATENT)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In the Application of:

Examiner: Melanie J. Yu

Xing SU et al.

Art Unit: 1641

Serial No.: 10/750,301

Confirmation No.: 1668

Filing Date: December 30, 2003

For: METHODS AND DEVICES FOR USING
RAMAN-ACTIVE PROBE CONSTRUCTS TO
ASSAY BIOLOGICAL SAMPLES

DECLARATION UNDER 37 CFR 1.131

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

Xing SU, Andrew A. BERLIN, Tae-Woong KOO, Selena CHAN and Lei SUN declare under penalty of perjury under the laws of the United States of America as follows:

1. We are the inventors on this application.
2. We are familiar with the subject matter and claims of the present application.
3. In the Action of October 5, 2006, claims 1-5, 7-12, 22 and 34 were rejected as being obvious over Farquharson, in view of Takagi, further in view of Schultz. Claim 6 was rejected as being obvious over Farquharson, in view of Takagi, further in view of Schultz, yet further in view of Mirkin..




and one or more SERS-enhancing nanoparticles stationary within the gel and Takagi for disclosing gel separation of molecules by electrophoresis or magnetophoresis.

5. Farquharson is a 102(e) reference as it issued as a U.S. patent on September 13, 2005, from Application No. 10/372,621, filed on February 21, 2003, while the present application has a filing date of December 30, 2003. The invention of claim 1, however, was reduced to practice prior to February 13, 2003, when Intel's New Application Matter Number P16229 was opened. Intel's Matter Number P16229 refers to the present application. Intel's Matter Number New Application P16229 is based on several invention disclosures filed prior to February 12, 2003, including Invention Disclosure 28479.

6. We herewith submit page 4 and 5 of Invention Disclosure 28479 and cover pages of Intel's Matter Number New Application P16229 opened February 13, 2003. Please note that paragraph 14 (1) and (2) of Invention Disclosure 28479 fully support claim 1.

7. We declare under penalty of perjury under the laws of the United States that the foregoing is true and correct. Executed at Santa Clara, California, United States of America, this 04 day of 01, 2007.


Xing SU

Andrew A. BERLIN

Tae-Woong KOO

Selena CHAN


Lei SUN



4. In claim 1, as amended, the Examiner has relied on Farquharson for disclosing a gel matrix comprising a gel comprising pores having a size to sieve molecules of a desired size range and one or more SERS-enhancing nanoparticles stationary within the gel and Takagi for disclosing gel separation of molecules by electrophoresis or magnetophoresis.

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7. We declare under penalty of perjury under the laws of the United States that the foregoing is true and correct. Executed at San Jose, California, United States of America, this 5 day of March, 2007.

Xing SU

Andrew A. Berlin
Andrew A. BERLIN

Tae-Woong KOO

Selena CHAN



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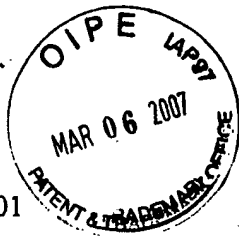
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